

MAY
2020

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School Governance Issues and Decisions Loom for the 2020-21 School Year

By **Terry Spradlin**, Executive Director, tspradlin@isba-ind.org

Many of you would agree with me that the most overused word in our vocabulary currently is the word “unprecedented”—yet that term appropriately describes our circumstances. Commendations to school board members, administrators, teachers, parents, and students for the monumental efforts you have demonstrated in navigating and meeting the challenges of completing the 2019-20 school year in these *unprecedented* times!

As a result of the COVID-19 pandemic, the delivery of high-quality K-12 educational services has been tested like most of us have never witnessed or experienced. School board meetings have moved to a virtual setting for essential business. Millions of school breakfast and lunch meals have been distributed to students and families across Indiana since mid-March. The digital divide has been mitigated by creativity with expanded Wi-Fi hotspots, distribution of devices, increased reliance on learning management systems, and e-learning instructional tools. However, most impressive has been the passion and dedication by teachers to support the more than 1 million Hoosier students in our schools. Congratulations to all K-12 teachers for being named “The **Indiana Teacher of the Year**” by the Indiana Department of Education on Tuesday.

While some decisions remain about such things as graduation ceremonies, use of school facilities, and the best format for summer school, much attention is now being turned to planning for the re-opening of schools during the 2020-21 school year. I have been meeting with other leaders from K-12 education management associations that include IAPSS, IASBO, IASP, IUSA, ISRSA, and the Coalition of Growing and Suburban Schools to discuss what we are collectively hearing from our members. (cont’d on page 2)

During these weekly meetings we have developed a short list of policy recommendations for school re-entry that we support. In turn, we have initiated conversations with officials from the executive and legislative branches of state government to discuss this list:

Policy Considerations for Re-Opening Schools for the 2020-21 School Year

- **Support local-control decisions regarding the start of the 2020-21 school year and managing the school calendar** in consultation with the local health department and following the ongoing guidance from the ISDH and CDC.
- **Fund school corporations for student participation in virtual or online learning at 100 percent** (rather than 85 percent). School corporations will likely be required to offer some level of remote and/or e-learning to continue teaching and learning during the next school year in the ongoing response to the pandemic.
- **Provide a hold harmless on the Fall 2020 ADM count using the Spring (February) 2020 count, to safeguard against abnormal enrollment or attendance patterns likely to occur next school year.** Undoubtedly, it is reasonable to expect waves of enrollment fluctuations with delayed student entry/enrollment, withdrawals, and transfers, as well as blended learning, demands for e-learning only, etc.
- **Eliminate the Grade 10 ISTEP+ /GQE immediately and replace it with the SAT and graduation requirement provisions of the graduation pathways.** Use the estimated net savings of \$32 million over four years to put back in Education Fund distributions to support teaching and learning in the classroom.
- **Support the health and public safety measures issued by the State Department of Health in response to the IDOE medical, health, and safety checklist submitted in early May.**
- **Add school corporations to the list of participants in the free PPE Marketplace offered by the state for small businesses and non-profit organizations.** Alternatively, establish a program for central purchasing of additional low-cost PPE and building cleaning supplies to be distributed when schools reopen.
- **Extend** (*upon termination of the public health emergency declaration by Governor Holcomb*) **the present Open Door Law flexibility provided to board members regarding in person vs. remote attendance for school board meetings, if an in-person quorum is established.** Mandatory in-person attendance for participation by some board members who are in vulnerable demographic groups or have pre-existing health conditions puts them at an increased health risk during the pandemic.

In addition, this group submitted a joint letter [HERE](#) to the governor on May 13, 2020, to request expanded civil liability immunity for school corporations, governing bodies, and staff, during the pandemic. Are there other statewide policy solutions that you would suggest? Please email me at: tspradlin@isba-ind.org to share your recommendations.



The New Normal

By **Dr. Michael Adamson**, Dir. of Board Services, madamson@isba-ind.org

Everyone is being inundated with advice from educational leaders, political figures, health experts, and members of communities all over Indiana, as well as throughout the country, regarding what the next, best steps are for resuming our lives after COVID-19. It is frightening; the fear that has consumed us and continues to occupy our every thought is almost crippling. It would be easy to succumb to paralysis by analysis because, regardless of every well-intended plan and the proposals emerging from the endless rhetoric designed to instill trust and confidence in the plans by the architects of the COVID-19 aftermath, the simple truth is . . . NO ONE KNOWS.

Welcome to the **new normal**. It is fair to say that the lives we live going forward will not be the same as our lives before the crisis, but no one really knows what our lives will be like post-pandemic. The way we work or how we plan social events like eating out, going to a ball game, or gathering with friends will be subject to new sets of rules. Regardless of what life will be like post-pandemic, it is a certainty that it will not ever be as it was pre-pandemic and, like everything else, there will be new sets of rules for traditional public education as well.

Our system of public education has been, and is being, tested. Some school districts have weathered the crisis better than others, but everyone has worked diligently throughout the quarantine to continue educating students. Their efforts are appreciated and should be applauded. K-12 school systems were forced to abandon traditional delivery models for classroom instruction, and although e-learning days were not new to many districts, they were never intended to be a long-term solution for weeks and months of off-site education. Consequently, we are still on the uphill side of what has been and may continue to be a strategy that emphasizes more long-term, remote learning.

A few years ago, ISBA offered a seminar topic titled "Crucial Conversations," after the book by the same title (Patterson, Grenny, McMillan, & Switzler, 2012). During these past few weeks, we have published information and spoken to many board members urging that you stay connected, pull together, and work as a team to support your administration during this unsettling time. Certainly, nothing more could be said to convince anyone that what public education is facing, as a result of the COVID-19 pandemic, is worthy of crucial conversations, immediate and ongoing.

There is precious little time to plan for the 2020 fall semester and whether that will entail opening schools, keeping them closed, or something in-between. Much of the heavy lifting conversations and decisions will be on the shoulders of state government, in concert with the education experts at the state level and in our local school districts. Throughout this time, local boards must remain informed and ready to act with purpose and determination as we wade through these troubled waters. It has not been the first challenge public education has faced, nor will it be the last, but it may test our resolve and try our patience until we break through on the other side of this trial.

References

Patterson, K., Grenny, J., McMillan, R., & Switzler, A. (2012). *Crucial conversations*. New York: McGraw-Hill.



Superintendent and Other Administrator Contracts

By **Lisa Tanselle**, General Counsel, ltanselle@isba-ind.org

In recent years, the General Assembly has made several changes to the permissible terms and conditions of superintendent and other administrator contracts. With the end of the school year approaching, and perhaps personnel changes occurring over the summer months, school board members should be aware of the following statutory provisions.

Superintendent Contracts

- The school board and superintendent must sign a regular teacher's contract. The contract may be supplemented by an addendum to the contract.
- The term of the contract must be for a term of at least one year and no more than three years. The original contract may be extended for no more than five years.
- A buy-out of the contract is limited to the lesser of the superintendent's salary for one year or \$250,000.
- When entering into a contract with a superintendent, the school board must publish in a local newspaper and post on its website the terms and conditions of the proposed contract. The board must also give notice to the public of the right to speak at a public meeting on the proposed contract. The board must wait at least seven days after the board meeting wherein the comments were heard before entering into the contract.
- The superintendent's contract must be posted on the school corporation's website.
- NEW: After June 30, 2021, a school board may not enter into a contract with a superintendent on or after the general election wherein board members are elected until January 1 of the year after the election unless there was no change

in the membership of the school board as a result of the election. (See P.L. 155-2020, Section 12)

Assistant Superintendent Contracts

- The contract between an assistant superintendent and school board must be for a term of at least one year and no more than three years. The initial contract may be extended for no more than three years.
- A buy-out of the contract is limited to the lesser of the assistant superintendent's salary for one year or \$250,000.
- The assistant superintendent's contract must be posted on the school corporation's website.

Principal/Assistant Principal Contracts

- The contract between a principal or assistant principal and a school board must be for a term of at least one year and no more than three years. The initial contract may be extended for no more than three years.
- A buy-out of the contract is limited to the salary of the principal or assistant principal for one year.
- The principal's and assistant principal's contract must be posted on the school corporation's website.

Directors of Special Education

- The initial contract between a school board (or the board of a special education cooperative) must be for at least two years.
- The director of special education's contract must be posted on the school corporation's website.

New Regulations on Sexual Harassment under Title IX Require Investigations, Grievance Procedures, and Appeals Among Other More Stringent Requirements

By **Julie Slavens**, Senior Counsel and Dir. of Policy Services, jslavens@isba-ind.org



On May 6, 2020, the United States Department of Education (USDOE) released its final rules relating to sexual harassment under Title IX. The regulations go into effect on August 14, 2020. The regulations require more formal procedures for the investigation of sexual harassment claims than previous regulations. A grievance procedure for Title IX sexual harassment claims has been required in the past, but the new regulations provide more detailed actions and conduct on the part of schools than previously required. ISBA will review the new regulations in more detail and provide more comprehensive analysis and revised policies and procedures in later publications. This article will provide an overview of the new regulations school board members need to be aware of and plan for in the coming months.

The new regulations require the school board to designate a person as a Title IX Coordinator and provide authority to the Title IX Coordinator to carry out the requirements of Title IX, its regulations, and school policy and procedures on Title IX complaints and investigations. The name of the Title IX Coordinator must be posted on the school corporation's website along with the contact information of the Coordinator, including an email address anyone can use to report sexual harassment. A report of sexual harassment may be made by phone, letter, email, or in person to the Title IX Coordinator. The school corporation must post its Title IX policy and grievance procedure on its website.

The new regulations require a detailed grievance process to be used when a written formal complaint of sexual harassment is filed. This procedure requires an investigation and a formal resolution of a formal complaint be determined by a decisionmaker. A hearing is not required under the new regulations, but a resolution procedure must be part of the grievance process. The decisionmaker of a formal complaint must be a different person than the one who investigated the complaint and cannot be the Title IX Coordinator. An appeal is required to be part of the grievance process based on a procedural error that affected the outcome of the formal complaint, a dismissal of a formal complaint, and/or newly discovered evidence that affects the outcome of the investigation and determination of a formal complaint. Both parties, the alleged victim of sexual harassment and the person who is accused of engaging in sexual harassment, have the right to appeal. As part of its grievance process, the school corporation is required to decide the standard of evidence to be used for all formal complaints – the preponderance of the evidence or clear and convincing evidence.

The regulations require the school corporation to provide training to its employees on sexual harassment and specific training to its Title IX Coordinator and decisionmakers on how to investigate and to conduct formal or informal resolutions of sexual harassment complaints under the regulations. The school corporation must post its training materials on the school corporation website.

Grassroots Advocacy Needed to Secure Federal Relief and Recovery Funding for Schools

By **Terry Spradlin**, Executive Director, tspradlin@isba-ind.org



These are daunting times and we all need to work together to ensure Hoosier children have optimal learning opportunities available to them next school year. A challenge will be maintaining budget levels given the coronavirus recession our nation and world is in. The economic shutdown that has swept across our nation has translated into a loss of \$930.6 million in state revenues from budgeted amounts for the month of April alone. In an Education Week article this week (5/18/2020), Michael Griffith, a senior school finance researcher and policy analyst for the Learning Policy Institute, is quoted to estimate that in total, America will need to spend \$41 billion, or 5 percent, more next year just to roll out remote learning, expand food service for a growing number of low-income students, and extend the school year to make up for lost days. So far, the CARES Act has appropriated \$13.5 billion to help address these needs.

A key to helping school districts manage operations during the pandemic crisis and continue optimal educational services to Hoosier students will be federal relief and recovery funding. While the CARES Act was a meaningful measure in this phase of the pandemic, additional federal support will be needed. We will need to play our part in supporting advocacy efforts on Capitol Hill. Please consider lending your support for other measures currently, or yet to come, before Congress. Here is a summary of two measures pending in Congress:

The **Emergency Education Connections Act of 2020** (S. 3690), has been introduced in the U.S. Senate to help students connect to the Internet while learning at home during the COVID-19 crisis. The legislation would provide \$4 billion in funds to help close the digital divide in education for many students across the nation and in Indiana. Most school buildings across the nation are closed and classes have shifted online for the foreseeable future and in many cases, for the rest of the school year and possibly the next one. An estimated 12 million

students nationwide, and at least 170,100 students in Indiana, currently lack home internet access and, as a result, struggle to learn remotely while classes have moved online during the pandemic.

This digital divide in K-12 education, commonly known as the **homework gap**, unfairly hinders the ability of millions of students living in low-income families and others who live in areas with low connectivity, particularly in rural areas, to fully benefit from a high-quality online learning environment. The homework gap also impacts some of the most vulnerable students such as those with disabilities.

The **HEROES ACT** (H.R. 6800), was voted on by the U.S. House of Representatives on Friday, May 15, and passed by a 208-199 vote. This pending legislation proposes \$3 trillion in emergency relief and recovery funding. Republican Majority Leadership in the U.S. Senate has stated that they will not consider this legislation at this time.

Among other investments, the bill provides the following funding:

- \$1 trillion to state, local, territorial, and tribal governments
- \$90 billion for a State Fiscal Stabilization Fund for grants to states to support statewide and local funding for elementary and secondary schools and public postsecondary institutions. Approximately \$58 billion of the total would be provided to K-12 education
- \$1.5 billion in funding for the E-rate Program for schools and libraries to provide internet service in a technologically neutral way to students and teachers, prioritizing those without internet access at home
- \$3 billion for school meal providers and USDA's Child and Adult Care Food Program (cont'd on next page)



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NSBA, our Washington office, plans to continue urging Congress to provide \$200 billion in the bill to help school districts and a minimum of \$4 billion in funding to the E-Rate program to close the homework gap.

According to our NSBA lobbyists, Senate Majority Leader McConnell has called for a slower process, arguing that the CARES Act should be allowed to work before Congress takes additional action. As a result, NSBA does not expect Senate leaders to introduce new emergency legislation anytime soon, but they will continue talking with senators about the importance of providing additional funding for public education, including dedicated funding for student and teacher broadband connectivity.

We need to mobilize our grassroots advocacy efforts to champion support for these, or other similar, relief and recovery measures to support children and the K-12 public schools they attend. Let's champion the close of the homework gap now with federal support so that we will be better positioned to support e-learning next school year. Please write or call your U.S. Congressman and Indiana's U.S. Senators to express support for these and other emergency relief and recovery funding proposals.

ISBA in the News

- » [Hoosier K-12 public education in Indiana rocked by COVID-19](#)
- » [When school resumes in the fall, what will it look like? Here are the possibilities](#)
- » [New CARES Act Guidance Creates Confusion, Offers Private Schools More Emergency Funds](#)
- » [South Bend area education leaders say there's a lot of stake in accurate census count](#)

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